

SENATE BILL 629

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2lr0569

By: **Senator Conway (Chair, Education, Health, and Environmental Affairs Committee)**

Introduced and read first time: February 3, 2012

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 8, 2012

CHAPTER _____

1 AN ACT concerning

2 **State Board of Physicians – Sunset Extension and Program Evaluation**

3 FOR the purpose of continuing the State Board of Physicians in accordance with the
4 provisions of the Maryland Program Evaluation Act (Sunset Law) by extending
5 to a certain date the termination provisions relating to the statutory and
6 regulatory authority of the Board; prohibiting certain individuals from
7 providing certain services to the Board under certain circumstances; prohibiting
8 certain individuals from being appointed to the Board under certain
9 circumstances; repealing a certain provision of law regarding entry onto private
10 premises for a certain purpose; authorizing the Board's executive director to
11 apply for a certain search warrant under certain circumstances; specifying that
12 the application for the warrant must meet certain requirements; authorizing a
13 judge who receives a certain search warrant application to issue a warrant
14 under certain circumstances; specifying that a certain search warrant must
15 include certain information and be executed and returned to a certain person
16 within a certain period of time; authorizing certain physicians to practice
17 medicine without a license under certain circumstances; providing for a certain
18 exception to certain education qualifications necessary for licensure; codifying
19 the requirement that the Board provide certain individuals an opportunity to
20 appear before the Board under certain circumstances; requiring the Board to
21 disclose the filing of charges and initial denials of licensure on the Board's Web
22 site; requiring that physician license profiles include a summary of charges filed
23 against the physician and a copy of the charging document under certain
24 circumstances; requiring that license profiles include a certain disclaimer;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 requiring the Board to include certain information on a license profile within a
 2 certain time period; specifying that a certain report that certain entities are
 3 required to file with the Board include certain information; authorizing the
 4 Board to impose a certain civil penalty on an alternative health system that
 5 fails to file a certain report; requiring the Board to remit a certain penalty to the
 6 General Fund of the State; repealing the requirement that a circuit court of the
 7 State impose a civil penalty on an alternative health system that fails to file a
 8 certain report; specifying that a certain court reporting requirement is to be
 9 enforced by the imposition of a certain fine by a circuit court of the State;
 10 requiring the Board and the Department of Health and Mental Hygiene to
 11 develop and implement a certain strategy on or before a certain date; requiring
 12 the Board to consider engaging the services of a certain consultant to develop
 13 and recommend a certain strategy for addressing and implementing certain
 14 recommendations; requiring the Board to report certain results and a certain
 15 status to the General Assembly on or before a certain date; requiring the Board
 16 to assess certain practices and submit a certain long-term fiscal plan to the
 17 Department of Legislative Services on or before a certain date; requiring the
 18 Board to amend the Board's regulations to reflect the procedures of the Board
 19 on or before a certain date; requiring the Board to submit a certain report to the
 20 Department of Legislative Services on or before a certain date; requiring the
 21 Department of Legislative Services to make certain recommendations to certain
 22 committees of the General Assembly on or before a certain date; and generally
 23 relating to the State Board of Physicians.

24 BY adding to
 25 Article – Health Occupations
 26 Section 14–202(l), 14–206.1, 14–401(l), and 14–416
 27 Annotated Code of Maryland
 28 (2009 Replacement Volume and 2011 Supplement)

29 BY repealing and reenacting, with amendments,
 30 Article – Health Occupations
 31 Section 14–206(d)(1), 14–302, 14–307, 14–308, 14–411(i), 14–411.1(b), (c)(2), and
 32 (f), 14–413, 14–414, and 14–702
 33 Annotated Code of Maryland
 34 (2009 Replacement Volume and 2011 Supplement)

35 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 36 MARYLAND, That the Laws of Maryland read as follows:

37 **Article – Health Occupations**

38 14–202.

39 **(L) (1) AN INDIVIDUAL MAY NOT PROVIDE SERVICES TO THE BOARD**
 40 **FOR REMUNERATION UNLESS 3 YEARS HAVE PASSED SINCE THE TERMINATION**
 41 **OF THE INDIVIDUAL'S APPOINTMENT TO THE BOARD.**

1 **(2) AN INDIVIDUAL MAY NOT BE APPOINTED TO THE BOARD IF**
2 **THE INDIVIDUAL IS PROVIDING OR HAS PROVIDED SERVICES TO THE BOARD**
3 **FOR REMUNERATION WITHIN THE PRECEDING 3 YEARS.**

4 14-206.

5 (d) (1) If the entry is necessary to carry out a duty under this title, the
6 Board's executive director or other duly authorized agent or investigator of the Board
7 may enter at any reasonable hour:

8 (i) A place of business of a licensed physician; **OR**

9 (ii) [Private premises where the Board suspects that a person
10 who is not licensed by the Board is practicing, attempting to practice, or offering to
11 practice medicine, based on a formal complaint; or

12 (iii)] Public premises.

13 **14-206.1.**

14 **(A) THE BOARD'S EXECUTIVE DIRECTOR MAY APPLY TO A JUDGE OF**
15 **THE DISTRICT COURT OR A CIRCUIT COURT FOR A SEARCH WARRANT TO ENTER**
16 **PRIVATE PREMISES AND SEIZE EVIDENCE WHERE THE BOARD SUSPECTS THAT A**
17 **PERSON WHO IS NOT LICENSED BY THE BOARD IS PRACTICING, ATTEMPTING TO**
18 **PRACTICE, OR OFFERING TO PRACTICE MEDICINE, BASED ON A COMPLAINT**
19 **RECEIVED BY THE BOARD.**

20 **(B) AN APPLICATION FOR A SEARCH WARRANT SHALL:**

21 **(1) BE IN WRITING;**

22 **(2) BE VERIFIED BY THE APPLICANT; AND**

23 **(3) DESCRIBE THE PREMISES TO BE SEARCHED AND THE**
24 **NATURE, SCOPE, AND PURPOSE OF THE SEARCH.**

25 **(C) A JUDGE WHO RECEIVES AN APPLICATION FOR A SEARCH WARRANT**
26 **MAY ISSUE A WARRANT ON A FINDING THAT:**

27 **(1) THE SCOPE OF THE PROPOSED SEARCH IS REASONABLE;**

28 **(2) THE REQUEST FOR A SEARCH WARRANT IS BASED ON A**
29 **COMPLAINT RECEIVED BY THE BOARD; AND**

1 **(3) OBTAINING CONSENT TO ENTER THE PREMISES MAY**
2 **JEOPARDIZE THE ATTEMPT TO DETERMINE WHETHER A PERSON WHO IS NOT**
3 **LICENSED BY THE BOARD IS PRACTICING, ATTEMPTING TO PRACTICE, OR**
4 **OFFERING TO PRACTICE MEDICINE.**

5 **(D) (1) A SEARCH WARRANT ISSUED UNDER THIS SECTION SHALL**
6 **SPECIFY THE LOCATION OF THE PREMISES TO BE SEARCHED.**

7 **(2) A SEARCH CONDUCTED IN ACCORDANCE WITH A SEARCH**
8 **WARRANT ISSUED UNDER THIS SECTION MAY NOT EXCEED THE LIMITS**
9 **SPECIFIED IN THE WARRANT.**

10 **(E) A SEARCH WARRANT ISSUED UNDER THIS SECTION SHALL BE**
11 **EXECUTED AND RETURNED TO THE ISSUING JUDGE:**

12 **(1) WITHIN THE PERIOD SPECIFIED IN THE WARRANT, WHICH**
13 **MAY NOT EXCEED 30 DAYS FROM THE DATE OF ISSUANCE; OR**

14 **(2) WITHIN 15 DAYS AFTER THE WARRANT IS ISSUED, IF NO**
15 **PERIOD IS SPECIFIED IN THE WARRANT.**

16 14-302.

17 Subject to the rules, regulations, and orders of the Board, the following
18 individuals may practice medicine without a license:

19 **(1) A medical student or an individual in a postgraduate medical**
20 **training program that is approved by the Board, while doing the assigned duties at**
21 **any office of a licensed physician, hospital, clinic, or similar facility;**

22 **(2) A physician licensed by and residing in another jurisdiction, [while**
23 **engaging in consultation with a physician licensed in this State] IF:**

24 **(I) THE PHYSICIAN IS ENGAGED IN CONSULTATION WITH A**
25 **PHYSICIAN LICENSED IN THE STATE ABOUT A PARTICULAR PATIENT AND DOES**
26 **NOT DIRECT PATIENT CARE;**

27 **(II) THE BOARD FINDS, ON APPLICATION BY A MARYLAND**
28 **HOSPITAL, THAT:**

29 **1. THE PHYSICIAN POSSESSES A SKILL OR USES A**
30 **PROCEDURE THAT:**

1 A. IS ADVANCED BEYOND THOSE SKILLS OR
2 PROCEDURES NORMALLY TAUGHT OR EXERCISED IN THE HOSPITAL AND IN
3 STANDARD MEDICAL EDUCATION OR TRAINING;

4 B. COULD NOT BE OTHERWISE CONVENIENTLY
5 TAUGHT OR DEMONSTRATED IN STANDARD MEDICAL EDUCATION OR TRAINING
6 IN THAT MARYLAND HOSPITAL; AND

7 C. IS LIKELY TO BENEFIT A MARYLAND PATIENT IN
8 THIS INSTANCE;

9 2. THE DEMONSTRATION OF THE SKILL OR
10 PROCEDURE WILL CONSUME NO MORE THAN 14 DAYS;

11 3. A HOSPITAL PHYSICIAN LICENSED IN THE STATE
12 HAS CERTIFIED TO THE BOARD THAT THE PHYSICIAN WILL BE RESPONSIBLE
13 FOR THE MEDICAL CARE PROVIDED BY THAT VISITING PHYSICIAN TO THE
14 PATIENT IN THE STATE;

15 4. THE VISITING PHYSICIAN HAS NO HISTORY OF
16 ANY MEDICAL DISCIPLINARY ACTION IN ANY OTHER STATE, TERRITORY,
17 NATION, OR ANY BRANCH OF THE UNITED STATES UNIFORMED SERVICES OR
18 THE VETERANS ADMINISTRATION, AND HAS NO SIGNIFICANT DETRIMENTAL
19 MALPRACTICE HISTORY IN THE JUDGMENT OF THE BOARD;

20 5. THE PHYSICIAN IS COVERED BY MALPRACTICE
21 INSURANCE IN THE JURISDICTION WHERE THE PHYSICIAN PRACTICES; AND

22 6. THE HOSPITAL ASSURES THE BOARD THAT THE
23 PATIENT WILL BE PROTECTED BY ADEQUATE MALPRACTICE INSURANCE; OR

24 (iii) THE BOARD FINDS, ON APPLICATION BY A MARYLAND
25 HOSPITAL, THAT:

26 1. THE HOSPITAL PROVIDES TRAINING IN A SKILL
27 OR USES A PROCEDURE THAT:

28 A. IS ADVANCED BEYOND THOSE SKILLS OR
29 PROCEDURES NORMALLY TAUGHT OR EXERCISED IN STANDARD MEDICAL
30 EDUCATION OR TRAINING;

31 B. COULD NOT BE OTHERWISE CONVENIENTLY
32 TAUGHT OR DEMONSTRATED IN THE VISITING PHYSICIAN'S PRACTICE; AND

1 **C. IS LIKELY TO BENEFIT A MARYLAND PATIENT IN**
2 **THIS INSTANCE;**

3 **2. THE DEMONSTRATION OR EXERCISE OF THE**
4 **SKILL OR PROCEDURE WILL CONSUME NO MORE THAN 14 DAYS;**

5 **3. A HOSPITAL PHYSICIAN LICENSED IN THE STATE**
6 **HAS CERTIFIED TO THE BOARD THAT THE PHYSICIAN WILL BE RESPONSIBLE**
7 **FOR THE MEDICAL CARE PROVIDED BY THAT VISITING PHYSICIAN TO THE**
8 **PATIENT IN THE STATE;**

9 **4. THE VISITING PHYSICIAN HAS NO HISTORY OF**
10 **ANY MEDICAL DISCIPLINARY ACTION IN ANY OTHER STATE, TERRITORY,**
11 **NATION, OR ANY BRANCH OF THE UNITED STATES UNIFORMED SERVICES OR**
12 **THE VETERANS ADMINISTRATION, AND HAS NO SIGNIFICANT DETRIMENTAL**
13 **MALPRACTICE HISTORY IN THE JUDGMENT OF THE BOARD;**

14 **5. THE PHYSICIAN IS COVERED BY MALPRACTICE**
15 **INSURANCE IN THE JURISDICTION WHERE THE PHYSICIAN PRACTICES; AND**

16 **6. THE HOSPITAL ASSURES THE BOARD THAT THE**
17 **PATIENT WILL BE PROTECTED BY ADEQUATE MALPRACTICE INSURANCE;**

18 (3) A physician employed in the service of the federal government
19 while performing the duties incident to that employment;

20 (4) A physician who resides in and is authorized to practice medicine
21 by any state adjoining this State and whose practice extends into this State, if:

22 (i) The physician does not have an office or other regularly
23 appointed place in this State to meet patients; and

24 (ii) The same privileges are extended to licensed physicians of
25 this State by the adjoining state; and

26 (5) An individual while under the supervision of a licensed physician
27 who has specialty training in psychiatry, and whose specialty training in psychiatry
28 has been approved by the Board, if the individual submits an application to the Board
29 on or before October 1, 1993, and either:

30 (i) 1. Has a master's degree from an accredited college or
31 university; and

32 2. Has completed a graduate program accepted by the
33 Board in a behavioral science that includes 1,000 hours of supervised clinical
34 psychotherapy experience; or

1 (ii) 1. Has a baccalaureate degree from an accredited college
2 or university; and

3 2. Has 4,000 hours of supervised clinical experience that
4 is approved by the Board.

5 14–307.

6 (a) To qualify for a license, an applicant shall be an individual who meets the
7 requirements of this section.

8 (b) The applicant shall be of good moral character.

9 (c) The applicant shall be at least 18 years old.

10 (d) Except as provided in **SUBSECTION (E) OF THIS SECTION AND IN §**
11 **14–308** of this subtitle, the applicant shall:

12 (1) (i) Have a degree of doctor of medicine from a medical school
13 that is accredited by an accrediting organization that the Board recognizes in its
14 regulations; and

15 (ii) Submit evidence acceptable to the Board of successful
16 completion of 1 year of training in a postgraduate medical training program that is
17 accredited by an accrediting organization that the Board recognizes in its regulations;
18 or

19 (2) (i) Have a degree of doctor of osteopathy from a school of
20 osteopathy in the United States, its territories or possessions, Puerto Rico, or Canada
21 that has standards for graduation equivalent to those established by the American
22 Osteopathic Association; and

23 (ii) Submit evidence acceptable to the Board of successful
24 completion of 1 year of training in a postgraduate medical training program accredited
25 by an accrediting organization that the Board recognizes in its regulations.

26 **(E) IN LIEU OF THE REQUIREMENTS OF SUBSECTION (D) OF THIS**
27 **SECTION, THE BOARD MAY ACCEPT AN APPLICANT WHO:**

28 **(1) ON AN ANNUAL BASIS, TEACHES FULL TIME IN A MEDICAL**
29 **SCHOOL IN THE UNITED STATES THAT IS ACCREDITED BY THE LIAISON**
30 **COMMITTEE ON MEDICAL EDUCATION; OR**

31 **(2) POSSESSES 10 YEARS OF CLINICAL PRACTICE OF MEDICINE**
32 **UNDER A FULL UNRESTRICTED LICENSE HELD IN ANOTHER STATE OR IN**

1 CANADA, WITH AT LEAST 3 OF THE 10 YEARS HAVING OCCURRED WITHIN 5
2 YEARS OF THE DATE OF THE APPLICATION.

3 [(e)] (F) Except as otherwise provided in this title, the applicant shall pass
4 an examination required by the Board under this subtitle.

5 [(f)] (G) The applicant shall meet any other qualifications that the Board
6 establishes in its regulations for license applicants.

7 [(g)] (H) An applicant who has failed the examination or any part of the
8 examination 3 or more times shall submit evidence of having completed 1 year of
9 additional clinical training in an approved postgraduate training program following
10 the latest failure.

11 [(h)] (I) (1) The Board shall require as part of its examination or
12 licensing procedures that an applicant for a license to practice medicine demonstrate
13 an oral competency in the English language.

14 (2) Graduation from a recognized English-speaking undergraduate
15 school or high school, including General Education Development (GED), after at least
16 3 years of enrollment, or from a recognized English-speaking professional school is
17 acceptable as proof of proficiency in the oral communication of the English language
18 under this section.

19 (3) By regulation, the Board shall develop a procedure for testing
20 individuals who because of their speech impairment are unable to complete
21 satisfactorily a Board approved standardized test of oral competency.

22 (4) If any disciplinary charges or action that involves a problem with
23 the oral communication of the English language are brought against a licensee under
24 this title, the Board shall require the licensee to take and pass a Board approved
25 standardized test of oral competency.

26 14-308.

27 (a) (1) In this section the following terms have the meanings indicated.

28 (2) "Fifth pathway program" means a program that the Board
29 approves in its regulations for a student who:

30 (i) Has studied medicine at a foreign medical school;

31 (ii) Was a United States citizen when the student enrolled in
32 the foreign medical school; and

1 (iii) Has completed all of the formal requirements for graduation
2 from the foreign medical school, except for any social service or postgraduate
3 requirements.

4 (3) "Foreign medical school" means a medical school located outside of
5 the United States, its territories or possessions, Puerto Rico, or Canada.

6 (b) An applicant for a license is exempt from the educational requirements of
7 § 14-307 of this subtitle, if the applicant:

8 (1) Has studied medicine at a foreign medical school;

9 (2) Is certified by the Educational Commission for Foreign Medical
10 Graduates or by its successor as approved by the Board;

11 (3) Passes a qualifying examination for foreign medical school
12 graduates required by the Board;

13 (4) Meets any other qualifications for foreign medical school graduates
14 that the Board establishes in its regulation for licensing of applicants;

15 (5) Submits acceptable evidence to the Board of the requirements set
16 in the Board's regulations; and

17 (6) [Meets] **EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS**
18 **SECTION, MEETS** one of the following requirements:

19 (i) The applicant graduated from any foreign medical school
20 and submits evidence acceptable to the Board of successful completion of 2 years of
21 training in a postgraduate medical education program accredited by an accrediting
22 organization recognized by the Board; or

23 (ii) The applicant successfully completed a fifth pathway
24 program and submits evidence acceptable to the Board that the applicant:

25 1. Has a document issued by the foreign medical school
26 certifying that the applicant completed all of the formal requirements of that school for
27 the study of medicine, except for the postgraduate or social service components as
28 required by the foreign country or its medical school;

29 2. Has successfully completed a fifth pathway program;
30 and

31 3. Has successfully completed 2 years of training in a
32 postgraduate medical education program following completion of a Board approved
33 fifth pathway program.

1 **(C) IN LIEU OF THE REQUIREMENTS OF SUBSECTION (B)(6) OF THIS**
2 **SECTION, THE BOARD MAY ACCEPT AN APPLICANT WHO:**

3 **(1) ON AN ANNUAL BASIS, TEACHES FULL TIME IN A MEDICAL**
4 **SCHOOL IN THE UNITED STATES THAT IS ACCREDITED BY THE LIAISON**
5 **COMMITTEE ON MEDICAL EDUCATION; OR**

6 **(2) POSSESSES 10 YEARS OF CLINICAL PRACTICE OF MEDICINE**
7 **UNDER A FULL UNRESTRICTED LICENSE HELD IN ANOTHER STATE OR IN**
8 **CANADA, WITH AT LEAST 3 OF THE 10 YEARS HAVING OCCURRED WITHIN 5**
9 **YEARS OF THE DATE OF THE APPLICATION.**

10 14-401.

11 **(L) THE BOARD, IN CONDUCTING A CASE RESOLUTION CONFERENCE,**
12 **OR ITS SUCCESSOR, UNDER COMAR 10.32.02.03 SHALL PROVIDE AN**
13 **OPPORTUNITY TO APPEAR BEFORE THE BOARD TO BOTH THE LICENSEE WHO**
14 **HAS BEEN CHARGED AND THE INDIVIDUAL WHO HAS FILED THE COMPLAINT**
15 **AGAINST THE LICENSEE GIVING RISE TO THE CHARGE.**

16 14-411.

17 (i) Following the filing of charges or notice of initial denial of license
18 application, the Board shall disclose the filing to the public **ON THE BOARD'S WEB**
19 **SITE.**

20 14-411.1.

21 (b) The Board shall create and maintain a public individual profile on each
22 licensee that includes the following information:

23 **(1) A SUMMARY OF CHARGES FILED AGAINST THE LICENSEE**
24 **THAT INCLUDES A COPY OF THE CHARGING DOCUMENT, UNTIL THE BOARD HAS**
25 **TAKEN ACTION UNDER § 14-404 OF THIS SUBTITLE BASED ON THE CHARGES OR**
26 **HAS RESCINDED THE CHARGES;**

27 **(2)** A description of any disciplinary action taken by the Board against
28 the licensee within the most recent 10-year period that includes a copy of the public
29 order;

30 **[(2)] (3)** A description in summary form of any final disciplinary
31 action taken by a licensing board in any other state or jurisdiction against the licensee
32 within the most recent 10-year period;

1 ~~[(3)]~~ (4) The number of medical malpractice final court judgments
2 and arbitration awards against the licensee within the most recent 10-year period for
3 which all appeals have been exhausted as reported to the Board;

4 ~~[(4)]~~ (5) A description of a conviction or entry of a plea of guilty or
5 nolo contendere by the licensee for a crime involving moral turpitude reported to the
6 Board under § 14-413(b) of this subtitle; and

7 ~~[(5)]~~ (6) Medical education and practice information about the
8 licensee including:

9 (i) The name of any medical school that the licensee attended
10 and the date on which the licensee graduated from the school;

11 (ii) A description of any internship and residency training;

12 (iii) A description of any specialty board certification by a
13 recognized board of the American Board of Medical Specialties or the American
14 Osteopathic Association;

15 (iv) The name of any hospital where the licensee has medical
16 privileges as reported to the Board under § 14-413 of this subtitle;

17 (v) The location of the licensee's primary practice setting; and

18 (vi) Whether the licensee participates in the Maryland Medical
19 Assistance Program.

20 (c) In addition to the requirements of subsection (b) of this section, the Board
21 shall:

22 (2) Include a statement on each licensee's profile of information to be
23 taken into consideration by a consumer when viewing a licensee's profile, including
24 factors to consider when evaluating a licensee's malpractice data **AND A DISCLAIMER**
25 **STATING THAT A CHARGING DOCUMENT DOES NOT INDICATE A FINAL FINDING**
26 **OF GUILT BY THE BOARD;** and

27 (f) The Board shall include information relating to **CHARGES FILED**
28 **AGAINST A LICENSEE BY THE BOARD AND** a final disciplinary action taken by the
29 Board against a licensee in the licensee's profile within 10 days after **THE CHARGES**
30 **ARE FILED OR** the action becomes final.

31 14-413.

32 (a) (1) Every 6 months, each hospital and related institution shall file
33 with the Board a report that:

1 (i) Contains the name of each licensed physician who, during
2 the 6 months preceding the report:

- 3 1. Is employed by the hospital or related institution;
4 2. Has privileges with the hospital or related institution;
5 and
6 3. Has applied for privileges with the hospital or related
7 institution; [and]

8 (ii) States whether, as to each licensed physician, during the 6
9 months preceding the report:

10 1. The hospital or related institution denied the
11 application of a physician for staff privileges or limited, reduced, otherwise changed, or
12 terminated the staff privileges of a physician, or the physician resigned whether or not
13 under formal accusation, if the denial, limitation, reduction, change, termination, or
14 resignation is for reasons that might be grounds for disciplinary action under § 14-404
15 of this subtitle;

16 2. The hospital or related institution took any
17 disciplinary action against a salaried, licensed physician without staff privileges,
18 including termination of employment, suspension, or probation, for reasons that might
19 be grounds for disciplinary action under § 14-404 of this subtitle;

20 3. The hospital or related institution took any
21 disciplinary action against an individual in a postgraduate medical training program,
22 including removal from the training program, suspension, or probation for reasons
23 that might be grounds for disciplinary action under § 14-404 of this subtitle;

24 4. A licensed physician or an individual in a
25 postgraduate training program voluntarily resigned from the staff, employ, or training
26 program of the hospital or related institution for reasons that might be grounds for
27 disciplinary action under § 14-404 of this subtitle; or

28 5. The hospital or related institution placed any other
29 restrictions or conditions on any of the licensed physicians as listed in items 1 through
30 4 of this subparagraph for any reasons that might be grounds for disciplinary action
31 under § 14-404 of this subtitle; AND

32 (iii) STATES THAT NO ACTION WAS TAKEN AGAINST THE
33 LICENSED PHYSICIAN IF THE HOSPITAL OR RELATED INSTITUTION DID NOT
34 TAKE ACTION AGAINST THE LICENSED PHYSICIAN DURING THE PERIOD
35 COVERED BY THE REPORT.

1 (2) The hospital or related institution shall:

2 (i) Submit the report within 10 days of any action described in
3 paragraph (1)(ii) of this subsection; and

4 (ii) State in the report the reasons for its action or the nature of
5 the formal accusation pending when the physician resigned.

6 (3) The Board may extend the reporting time under this subsection for
7 good cause shown.

8 (4) The minutes or notes taken in the course of determining the
9 denial, limitation, reduction, or termination of the staff privileges of any physician in a
10 hospital or related institution are not subject to review or discovery by any person.

11 [(b) (1) Each court shall report to the Board each conviction of or entry of a
12 plea of guilty or nolo contendere by a physician for any crime involving moral
13 turpitude.

14 (2) The court shall submit the report within 10 days of the conviction
15 or entry of the plea.]

16 [(c) (B) The Board may enforce this section by subpoena.

17 [(d) (C) Any person shall have the immunity from liability described under
18 § 5-715(d) of the Courts and Judicial Proceedings Article for giving any of the
19 information required by this section.

20 [(e) (D) A report made under this section is not subject to subpoena or
21 discovery in any civil action other than a proceeding arising out of a hearing and
22 decision of the Board under this title.

23 [(f) (E) (1) The Board may impose a civil penalty of up to \$5,000 for
24 failure to report under this section.

25 (2) The Board shall remit any penalty collected under this subsection
26 into the General Fund of the State.

27 14-414.

28 (a) (1) Every 6 months, each alternative health system as defined in §
29 1-401 of this article shall file with the Board a report that:

30 (i) Contains the name of each licensed physician who, during
31 the 6 months preceding the report:

- 1 1. Is employed by the alternative health system;
- 2 2. Is under contract with the alternative health system;
- 3 and
- 4 3. Has completed a formal application process to become
- 5 under contract with the alternative health system; [and]

6 (ii) States whether, as to each licensed physician, during the 6

7 months preceding the report:

8 1. The alternative health system denied the formal

9 application of a physician to contract with the alternative health system or limited,

10 reduced, otherwise changed, or terminated the contract of a physician, or the

11 physician resigned whether or not under formal accusation, if the denial, limitation,

12 reduction, change, termination, or resignation is for reasons that might be grounds for

13 disciplinary action under § 14–404 of this subtitle; or

14 2. The alternative health system placed any other

15 restrictions or conditions on any licensed physician for any reasons that might be

16 grounds for disciplinary action under § 14–404 of this subtitle; **AND**

17 **(III) STATES THAT NO ACTION WAS TAKEN AGAINST THE**

18 **LICENSED PHYSICIAN IF THE ALTERNATIVE HEALTH SYSTEM DID NOT TAKE**

19 **ACTION AGAINST THE LICENSED PHYSICIAN DURING THE PERIOD COVERED BY**

20 **THE REPORT.**

21 (2) The alternative health system shall:

22 (i) Submit the report within 10 days of any action described in

23 paragraph (1)(ii) of this subsection; and

24 (ii) State in the report the reasons for its action or the nature of

25 the formal accusation pending when the physician resigned.

26 (3) The Board may extend the reporting time under this subsection for

27 good cause shown.

28 (4) The minutes or notes taken in the course of determining the

29 denial, limitation, reduction, or termination of the employment contract of any

30 physician in an alternative health system are not subject to review or discovery by any

31 person.

1 **[(b) (1)** Each court shall report to the Board each conviction of or entry of a
2 plea of guilty or nolo contendere by a physician for any crime involving moral
3 turpitude.

4 **(2)** The court shall submit the report within 10 days of the conviction
5 or entry of the plea.]

6 **[(c) (B)** The Board may enforce this section by subpoena.

7 **[(d) (C)** Any person shall have the immunity from liability described under
8 § 5-715(d) of the Courts and Judicial Proceedings Article for giving any of the
9 information required by this section.

10 **[(e) (D)** A report made under this section is not subject to subpoena or
11 discovery in any civil action other than a proceeding arising out of a hearing and
12 decision of the Board under this title.

13 **[(f) (E) (1)** [Failure to report pursuant to the requirements of this
14 section shall result in imposition of a civil penalty of up to \$5,000 by a circuit court of
15 this State] **THE BOARD MAY IMPOSE A CIVIL PENALTY OF UP TO \$5,000 FOR**
16 **FAILURE TO REPORT UNDER THIS SECTION.**

17 **(2) THE BOARD SHALL REMIT ANY PENALTY COLLECTED UNDER**
18 **THIS SUBSECTION INTO THE GENERAL FUND OF THE STATE.**

19 **14-416.**

20 **(A) (1) EACH COURT SHALL REPORT TO THE BOARD EACH**
21 **CONVICTION OF OR ENTRY OF A PLEA OF GUILTY OR NOLO CONTENDERE BY A**
22 **PHYSICIAN FOR ANY CRIME INVOLVING MORAL TURPITUDE.**

23 **(2) THE COURT SHALL SUBMIT THE REPORT WITHIN 10 DAYS OF**
24 **THE CONVICTION OR ENTRY OF THE PLEA.**

25 **(B) FAILURE TO REPORT PURSUANT TO THE REQUIREMENTS OF THIS**
26 **SECTION SHALL RESULT IN IMPOSITION OF A CIVIL PENALTY OF UP TO \$5,000**
27 **BY A CIRCUIT COURT OF THE STATE.**

28 **14-702.**

29 Subject to the evaluation and reestablishment provisions of the Program
30 Evaluation Act, this title and all rules and regulations adopted under this title shall
31 terminate and be of no effect after July 1, [2013] **2014.**

1 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December
2 31, 2012, the State Board of Physicians and the Department of Health and Mental
3 Hygiene jointly shall develop and implement a strategy for reducing the backlog of
4 complaint cases.

5 SECTION 3. AND BE IT FURTHER ENACTED, That the State Board of
6 Physicians shall consider engaging the services of an outside consultant to develop and
7 recommend a strategy for addressing and implementing the issues and
8 recommendations made by the Department of Legislative Services in the November
9 2011 publication “Sunset Review: Evaluation of the State Board of Physicians and the
10 Related Allied Health Advisory Committees”. On or before December 31, 2012, in
11 accordance with § 2–1246 of the State Government Article, the Board shall report to
12 the General Assembly and the Department of Legislative Services regarding the
13 results of the outside consultant’s review, if any, and the status of the implementation
14 of the Department of Legislative Services’ recommendations in the Sunset Review.

15 SECTION 4. AND BE IT FURTHER ENACTED, That, on or before December
16 31, 2012, the State Board of Physicians shall assess its fee–charging practices and
17 submit to the Department of Legislative Services a long–term fiscal plan that includes:

18 (1) a description of the method the Board uses to determine the
19 amount of licensing fees that the Board will charge licensees;

20 (2) the adequacy of the Board’s fund balance, including the Board’s
21 projected fund balance based on fee levels specified in regulations; and

22 (3) the sufficiency of physician fee levels, including whether current
23 fee levels need to be adjusted to reflect costs associated with peer review and physician
24 rehabilitation activities.

25 SECTION 5. AND BE IT FURTHER ENACTED, That, on or before December
26 31, 2012, the State Board of Physicians shall amend its regulations to reflect the
27 procedures of the Board.

28 SECTION 6. AND BE IT FURTHER ENACTED, That, on or before December
29 31, 2012, the State Board of Physicians shall submit a report, in accordance with §
30 2–1246 of the State Government Article, to the Department of Legislative Services
31 that addresses the status of the implementation of the recommendations made by the
32 Department in the November 2011 publication “Sunset Review: Evaluation of the
33 State Board of Physicians and the Related Allied Health Advisory Committees”.

34 SECTION ~~6~~ 7. AND BE IT FURTHER ENACTED, That, on or before October
35 1, 2013, the Department of Legislative Services shall submit a report, in accordance
36 with § 2–1246 of the State Government Article, to the Senate Education, Health, and
37 Environmental Affairs Committee and the House Health and Government Operations
38 Committee, that includes recommendations regarding the further extension of the

1 termination date of the State Board of Physicians and any related changes to § 8-403
2 of the State Government Article that would be required.

3 SECTION ~~7~~ 8. AND BE IT FURTHER ENACTED, That this Act shall take
4 effect June 1, 2012.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.